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## Procurement

# Best Value Source Selection Guide to Best Practices

**DEPARTMENT OF THE ARMY**  
**U. S. ARMY CORPS OF ENGINEERS**  
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**PROCUREMENT**

**BEST VALUE SOURCE SELECTION**  
**GUIDE TO BEST PRACTICES**

**CETAC-OC**  
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**“IT IS ARMY POLICY TO USE BEST VALUE PROCEDURES  
FOR ALL FORMAL SOURCE SELECTIONS. BEST VALUE  
SHOULD ALSO BE USED FOR OTHER COMPETITIVE  
NEGOTIATED ACQUISITIONS WHENEVER APPROPRIATE.”**

**-- AFARS 15.602(a)(2)(A)**

**I. PURPOSE:** This document is a guide to best practices for all Transatlantic Programs Center (CETAC) "best value" acquisitions. CETAC's increasing use of the best value approach to source selection and resulting lessons learned demonstrate the need for this guide.<sup>1</sup>

**II. APPLICABILITY:** This guidance is designed to apply to the Transatlantic Programs Center (CETAC). To the extent consistent with applicable regulations addressing formal source selections using a best value approach<sup>2</sup>, this guide applies to such procurements, as well as to best value acquisitions which use other than formal source selection procedures.

**III. REFERENCES:**<sup>3</sup>

A. Federal Acquisition Streamlining Act of 1994, P.L. 103-355, 108 Stat. 3243 (1994) (FASA).

B. Federal Acquisition Reform Act (included in the FY 96 Defense Authorization Act) P.L. 104-106 (1995) (FARA, now renamed the Clinger-Cohen Act).

C. Executive Order (EO) 12931, "Federal Procurement Reform", 10/13/94.

D. Federal Acquisition Regulation (FAR) Subpart 15.6, Source Selection.

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<sup>1</sup> This guide may mention, but does not address in detail, specific procedures indirectly related to the best value acquisition process; *e.g.*, cost and pricing data requirements; commercial item acquisitions; design-build selection procedures; information technology procurements; procurement integrity; micropurchase thresholds and procedures; simplified acquisitions and FACNET; and bid protest forum rules. Both the Federal Acquisition Streamlining Act of 1994, P.L. 103-355 (FASA) and the Federal Acquisition Reform Act (included in the FY 96 Defense Authorization Act), P.L. 104-106 (FARA, or, as renamed, the Clinger-Cohen Act) (and related implementing regulations) should be consulted, as both statutes made significant changes in such requirements. In addition, although applicable in other than best value acquisitions, this guide does address competitive range determinations, meaningful discussions, oral presentations, and notice to and debriefing of offerors. As a result of FASA and FARA, FAR Part 15 is under revision. *See* Appendix B for the proposed rule (published at 61 FR 48380) for the FAR Part 15 Rewrite. To encourage additional public comment, the FAR Council has decided to issue another proposal to rewrite FAR Part 15, either as a new proposed rule or on a more informal basis. A supplement to this guide will be issued following final implementation of the FAR Part 15 Rewrite.

<sup>2</sup> *See* AFARS Appendix AA, "Formal Source Selection."

<sup>3</sup> This guide incorporates specific source selection provisions of the FAR and FAR Supplements, as well as much of the guidance contained in the AMC and GSBICA Best Value Guidebooks referenced herein.

E. Defense Federal Acquisition Regulation Supplement (DFARS) Subpart 215.6 - Source Selection.

F. Army Federal Acquisition Regulation Supplement (AFARS) Subpart 15.6, Source Selection.

G. AFARS Appendix AA - Formal Source Selection.

H. Engineer Federal Acquisition Regulation Supplement (EFARS) Subpart 15.6, Source Selection.

I. CEPR-P Memorandum for Commander, All Major Subordinate Commands, *et al.* dated 28 August 1995, Subject: Under Secretary of Defense for Acquisition and Technology (USD(A&T)) Recommended Approaches to Source Selection Procedures.

J. CETAC Pamphlet, "Procurement - Source Selection Procedures," TADP 715-1-7.

K. USACE-TAC "Acquisition Methods Handbook."

L. AMC Pamphlet 715-3, Volume 5, "The Best Value Approach to Selecting A Contract Source: A Guide to Best Practices," 16 August 1994.

M. AMC Pamphlet 715-3, Volume 4, "Past Performance in Source Selection - An Evaluation Guide," 15 September 1993.

N. GSA Pamphlet KMP-92-P, "Federal Information Processing (FIP) Resources, Source Selection: The Greatest Value Approach," July 1993.

O. Nash & Cibinic Report, as cited and quoted herein.

P. Edwards, Vernon J., Best Value Source Selection Course Chartbook, The George Washington University National Law Center, Government Contracts Program, 1994.

Q. AMC Pamphlet 715-3, Volume 6, "Debriefing Handbook", 24 January 1995.

R. Edwards, Vernon J., How to Evaluate Past Performance: A Best Value Approach, The Monograph Series 2d, No. 1, The George Washington University National Law Center, Government Contracts Program, 1994.

S. Office of Federal Procurement Policy, A Guide to Best Practices for Past Performance (interim ed., May 1995) (<http://www.arnet.gov/BestP/Best Pract.html>).

T. CECC-C Memorandum for All Major Subordinate Command, District Command,



Field Operating Activity, and Laboratory Counsel, dated 9 September 1996, CECC-C Bulletin No. 96-16, Using Past Performance as an Evaluation Factor in Best Value Procurements.

#### IV. GENERAL OVERVIEW.

A. Acquisition Policy. Recent procurement reforms incorporate a preference for the best value approach to source selection, when appropriate. FARA section 4101 states that the FAR shall ensure the requirement to obtain full and open competition is implemented in a manner consistent with the need to efficiently fulfill the Government's requirements. In addition, FAR Part 15 and AFARS Subpart 15.6 and Appendix AA - Formal Source Selection, prescribe specific policies and procedures governing the best value source selection approach for competitive negotiated acquisitions.

B. "Best Value" Definition. "Best Value" means the process used in contracting by negotiation to select the most advantageous offer by evaluating and comparing factors in addition to cost or price. As defined in FAR 15.605(d)(1), "the greatest value to the Government" is represented by the offer which is most advantageous to the Government, considering cost or price, performance, risk management, and other non-cost factors.<sup>4</sup> Therefore, implicit in a best value source selection is the Government's willingness to accept other than the lowest priced, minimally acceptable offer<sup>5</sup>, if the overall value, including non-cost benefits, of a higher priced offer qualitatively exceeds any additional cost or price.

C. Critical Process Elements. In general, the three (3) most critical steps in the best value source selection process are:

1. **Proposal Evaluation:** Each proposal is evaluated on the basis of cost and non-cost/technical factors specified in the solicitation; an integrated assessment is made against pre-established evaluation criteria and the proposed cost or price.

2. **Comparative Analysis:** After any required interaction with the offerors, the

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<sup>4</sup> Appendix A to this guide contains definitions of certain words and terms associated with the greatest value, or "best value," approach to source selection.

<sup>5</sup> In negotiated procurements, one of two acquisition strategies or methods may be used to select the offer which is most advantageous to the Government: 1) the "best value" approach, which is the subject of this guide, and is appropriate when, for example, differing technical capabilities or performance exceeding a minimum standard will likely result in beneficial differences in achieving mission objectives; or 2) the "lowest-price, technically acceptable" (LPTA) method, which is appropriate when there is no significant value to the Government in obtaining technical capability or performance beyond a specified minimum. CETAC has historically utilized the LPTA method, with prequalification of proposers under certain circumstances. The LPTA method is addressed in more detail in Appendix C to this guide.

strengths, weaknesses and risks of competing proposals are compared to each other in such a way as to determine the advantages and disadvantages of each proposal and the price or cost associated with each of them.

3. **Cost-Technical Tradeoff Analysis:** Considering price and the other evaluation factors, the Source Selection Authority (SSA) performs a cost-technical tradeoff analysis and, exercising business judgment throughout this process, determines which proposal is most advantageous to the Government overall (the best value). The cost-technical tradeoff analysis performed by the SSA, also called the cost-benefit tradeoff analysis,<sup>6</sup> is the touchstone of the best value source selection method. Based on the results of the process, award is made to the offeror providing the most advantageous alternative to the Government, consistent with the solicitation evaluation criteria. Again, this means that a lower-priced offer may not be the most advantageous to the Government for technical reasons, or that a higher-priced offer with superior technical features may nevertheless be the best value, notwithstanding the price premium.

#### D. When is use of "Best Value" Appropriate?

1. As noted, Army policy is to use best value in all formal source selections<sup>7</sup>. But when should best value be used in other negotiated acquisitions? The simple answer is that the source selection method used should be commensurate with the evaluation needs of the acquisition. For example, when price or cost to the Government is clearly the most important factor in an acquisition, and significant technical expertise is not required, use of the best value approach is probably unnecessary and inappropriate<sup>8</sup>. Conversely, in certain situations, comparing *only* the cost or price of technically acceptable proposals, and using cost or price as the determining factor, would not adequately ensure the most advantageous alternative from a technical perspective. In the latter instance, the Government may get a better value by comparing technical proposals to determine the varying values of the range of solutions offered, with the objective of buying the best technical solution. In short, best value source selection is appropriate when price or cost is not the overriding evaluation factor and the Government stands to benefit from comparison of technical proposals and a reasoned tradeoff between technical and non-technical factors (including cost or price).

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<sup>6</sup> See AFARS 15.601, "Best Value" definition.

<sup>7</sup> See AFARS 15.602(a)(2)(A); and TADP 715-1-7, "Source Selection".

<sup>8</sup> However, it is noted that even in the instances where lowest price or lowest total cost to the Government is properly the deciding factor, certain non-cost evaluation factors must be considered. For example, the FAR now requires that past performance and quality must be addressed in every source selection. FAR 15.605(b). Furthermore, even where cost or price is the deciding factor, best value source selection methods may be used if limited to the consideration of past performance. See AFARS 15.602(a)(1)(B).

2. To illustrate, consider how best value source selection is appropriate in any of the following circumstances:

a. Where the Government's requirements are stated in terms of functional or performance specifications, offerors will be allowed and encouraged to propose different approaches, and variations in industry solutions could result in measurable beneficial differences in achieving mission objectives;

b. Where offeror qualifications or capabilities are important, because contractor responsibilities will be substantial or complex, or the item(s) or service(s) to be acquired are of a critical nature;

c. Where research and development or professional services are to be acquired;

d. Where cost-reimbursement contracting is anticipated;

e. Generally, where the quality and success of an offeror's performance may be more important than a higher price;

f. Generally, where contracting for capabilities which exceed the minimum requirements is more important than paying a higher price.

E. Pros and Cons of the Best Value Approach.

1. Because best value procedures are more sophisticated, complex and expensive than other source selection techniques, significant resources, in-depth planning, personnel and time must be committed when this method is used.

2. Advantages. Despite its complexity and expense, the best value approach allows greater flexibility to balance cost or price and non-cost/technical factors, by using a more sophisticated analysis to determine the value of relative strengths, weaknesses and risks of offers actually received. Under this method, CETAC is not limited to assessing offers against a predefined formula or mechanism that combines technical and cost ratings or rankings, and therefore does not distinguish between qualitative proposal elements. Another key advantage is that the process grants the SSA discretion to exercise business judgment through the cost-technical tradeoff process. Other specific advantages are:

a. **FLEXIBILITY** - Allows the procuring activity to consider innovative or individualized solutions to meet performance specifications, and select the best approach among a range of solutions, especially when the Government's requirements are difficult to define, or are complex or historically troublesome.

b. **RELEVANCE** - Permits analysis and comparison of specific proposal contents, rather than just an arbitrary comparison of technical ratings.

c. **REQUIRES SSA DISCRETION** - Takes advantage of the experience and independent, yet personal, judgment of high-level decision makers.

d. **SUBJECTIVITY PERMITTED** - Allows subjective comparison of technical and cost factors to determine the value of the relative strengths, weaknesses and risks of offers, with primary emphasis on technical factors when the Government demands high technical capabilities or qualifications, significant experience, or other technical expertise.

e. **TIMELINESS** - Proposer capabilities are evaluated at a relevant time, *i.e.*, just before the start of contract performance.

f. **RESULTS IN HIGH QUALITY PROJECTS** - Allows selection of offeror most likely to provide quality products, on time, and at reasonable cost.

3. **Disadvantages.** Because the method is complex and expensive, the resources committed and expended should be justified by the Government's need for this acquisition approach. Making the source selection more complicated and expensive than is necessary is pointless and may *thwart* the Government's requirements. Assuming the decision to use the best value approach is appropriate to the acquisition, the disadvantages are primarily in implementation of the process:

a. **USING THE WRONG EVALUATION CRITERIA** - When selected evaluation criteria do not accurately reflect the Government's requirements, award may be to an offeror who cannot adequately fulfill mission requirements. Therefore, be careful to select evaluation factors which truly add value.

b. **USING TOO MANY EVALUATION CRITERIA** - Using too many evaluation criteria prevents consideration of those which are true discriminators and makes the process much more difficult by requiring complex and numerous comparisons.

c. **LACK OF CLEAR GUIDANCE IN RFP** - It may be more difficult to construct a solicitation that gives precise guidance to offerors because the best value comparative analysis and tradeoff analysis cannot be performed until actual proposals have been received and compared. To compensate for this possibility, determine the relative importance of evaluation factors early in the planning process.

d. **INSUFFICIENT RESOURCES** - Failure to identify the resources required early in the planning process and to commit sufficient resources needed for a competent and defensible best value analysis will undermine the effectiveness of the process.

e. **INEFFECTIVE SOURCE SELECTION PLAN** - In formal source selections, high-level decision makers may delegate responsibility to subordinates or outside consultants without providing adequate supervision and review.

f. **TIMING OF VALUE ANALYSIS** - Because the value analysis is performed after proposals are received and evaluated, it may appear to be tailored to benefit a particular offeror.

g. **INADEQUATE DOCUMENTATION** - Inadequate resources, lack of training of evaluators, decision makers, or both, or inherent difficulties in documenting the rationale and justification for subjective elements of the best value evaluation and determination may lead to poor documentation of the selection process.

#### F. Six Major Steps in the Best Value Process.

1. This guide will address in detail the following six (6) major steps in the best value source selection process:

a. Developing and Documenting the Source Selection Plan for Conducting the Acquisition. The Source Selection Plan is the document which identifies and describes the goals and objectives of the acquisition, the evaluation factors, significant subfactors and their relative importance, the evaluation criteria and the overall source selection process.

b. Structuring the Solicitation. The solicitation must effectively communicate the Government's requirements, mission objectives, evaluation factors and significant subfactors, and the methodology for evaluating the proposals.<sup>9</sup>

c. Evaluating Proposals. Evaluation of offers must be consistent with the Source Selection Plan and the evaluation factors and significant subfactors identified in the RFP.

d. Performing the Comparative Analysis, Cost-Technical Tradeoff Analysis and Selection Determination. In accordance with the Source Selection Plan and the RFP, the strengths, weaknesses, risks and total costs of the proposals are compared, a cost-technical tradeoff analysis is performed if necessary, and the SSA determines which offer, in accordance with the RFP, represents the greatest value.

e. Notifying and Debriefing Offerors. Unsuccessful offerors must be

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<sup>9</sup> The RFP must describe these items in detail, and the CBD announcement should state that the acquisition is a "best value" procurement. However, in a CBD announcement, if there are at least two (2) evaluation factors, and LPTA is not specified (*i.e.*, where low price is not the controlling factor), best value is implied.

notified within statutorily prescribed timeframes and debriefed upon request.<sup>10</sup>

f. Documenting Lessons Learned. To benefit future source selections using the best value approach, lessons learned must be documented.

2. AFARS 15.611(d) sets forth additional guidance which must be followed in all Army acquisitions utilizing the best value source selection process:

- Best value source selection decisions shall not be made on the basis of a numerical point score, adjectival rating, or color codes alone. Scores, ratings and color codes are only guides to intelligent decision-making.
- The decision shall be made on the basis of an integrated assessment of the evaluation results as a whole.
- The source selection authority (SSA) must make a tradeoff analysis to decide which proposal offers the best value. The analysis must look behind the scores and consider the strengths, weaknesses and risks associated with each proposal.
- The SSA has considerable discretion in making his/her analysis and decision. However, the SSA must ensure that it does not differ from, and is consistent with, the evaluation factors and the basis for award described in the solicitation. The decision must be rational and fully documented.

G. Importance of the Source Selection Authority.

1. General. The consequences of the selection decision can be far-reaching. In most CETAC source selections, the contracting officer is the selection official. However, in a formal source selection, the SSA is typically other than the contracting officer, often a high-ranking official, and various acquisition procedures are significantly expanded. Therefore, early in the acquisition cycle of a formal source selection, the amount of time and effort required of the SSA should be considered. The appropriate person, who must be able to become adequately involved, should then be appointed. Because the SSA is fully accountable for the results of the decision, he or she must be knowledgeable of the factors necessary to determine the most advantageous alternative to the Government. In addition, successful execution of an acquisition using the best value approach requires early involvement of the SSA to ensure that the SSA is

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<sup>10</sup> Before 1 October 1995, the effective date of certain FAR amendments implemented as a result of the FASA, an agency was required by regulation to provide "prompt" notice of award to unsuccessful offerors and to debrief unsuccessful offerors "as soon as possible" upon request. Under FASA, specific deadlines now apply. The new requirements apply to all solicitations issued and/or contract awards made on or after 1 October 1995. FARA mandates preaward debriefings in some circumstances. See Section XI, below.

prepared to make a rational, consistent and defensible selection decision.

## 2. Informal vs. Formal Source Selection.

a. The use of formal source selection procedures unnecessarily delays smaller dollar value procurements. Generally, for less than major acquisitions, informal source selection procedures should be used.<sup>11</sup> Informal source selection decisions should be made by the contracting officer with the advice of technical and other specialists as appropriate.<sup>12</sup> Unnecessary layers of review should be eliminated and the decision-making authority maintained at a lower level more familiar with the details of the acquisition.

b. In both formal and informal source selections, it is essential for the program/project manager to provide the SSA a number of briefings early in the acquisition process. This approach will ensure that the SSA knows the program and is aware of relevant acquisition process constraints. It will also allow the SSA to readily express concerns and ideas that are likely to influence the final selection decision.

c. SSA approval of the source selection plan and the solicitation is a must. In addition, the SSA should be briefed on critical steps throughout the acquisition.<sup>13</sup>

H. Importance of Procurement Integrity. Stringent requirements for maintaining the integrity of the procurement process MUST be adhered to by all participants involved in the source selection process, including technical and contracting personnel. Both written and oral communications should be guarded.<sup>14</sup> Procurement integrity rules provide for both civil and criminal penalties for violations.<sup>15</sup> Following these requirements preserves the integrity of the competitive acquisition process. In addition, competition is enhanced by protecting confidential business information and internal Government processes from disclosure, and by ensuring that all offerors are treated equally so that no offeror obtains an unfair advantage. See FARA and referenced CETAC Regulations for additional details on Procurement Integrity issues.

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<sup>11</sup> See Reference III.I.

<sup>12</sup> *Id.*

<sup>13</sup> See AFARS Appendix AA for formal source selection procedures.

<sup>14</sup> See FAR 15.413, 15.413-1 and 15.413-2 for limitations on disclosure and use of information before award.

<sup>15</sup> See FAR 3.104.

## V. THE PLAN FOR SELECTING A SOURCE.

### A. Source Selection Plan.

#### 1. General.

a. A comprehensive, well thought-out plan for selecting a contract source is vital to any best value acquisition.

b. In all source selections, the plan must be tailored to reflect the complexity of the acquisition. In all negotiated source selections, prepare a formal Source Selection Plan (SSP) for the SSA's approval.

c. The SSP must state CETAC's intentions for organizing and conducting the evaluation and analysis of proposals and the source selection.

d. The SSP must be consistent with all evaluation criteria in the RFP, and to the extent they are included there, with any description of such criteria in the CBD announcement.

e. The SSP will be approved by the SSA before the RFP is issued.

f. Because the SSP will contain acquisition sensitive information, it *may not be released* outside CETAC's source selection organization.

#### 2. The SSP is a living document.

a. Acquisitions using a best value approach are frequently subject to changing internal and external influences. Examples of such influences include:

- 1) Differing missions or functions to be supported.
- 2) User geographic dispersion and technical sophistication level.
- 3) Rapid rate at which technology and market factors are changing.

b. Such factors influence how CETAC will specify its requirements, which in turn will influence offerors' solutions. Consider also that between the time CETAC identifies a requirement and the offerors submit proposals, new developments in technology may offer efficiency and productivity benefits unanticipated by CETAC. Accordingly, the SSP and solicitation should be structured to consider such influences.



3. Purpose of the Source Selection Plan. The source selection plan, which must be prepared and approved before the RFP is issued, serves several purposes:

- a. It defines a specific approach for soliciting and evaluating proposals.
- b. It describes the evaluation factors and significant subfactors, their relative importance, and the methodology used to evaluate proposals.
- c. It provides essential guidance to the solicitation developers, especially for solicitation Sections L and M (or their functional equivalents in USACE construction contracts).<sup>16</sup>
- d. It serves as a specific model for the source selection team in all negotiated source selections.
- e. It serves as the guide for the SSA.

4. Minimum Requirements of the SSP. The FARS do not prescribe a specific format for the SSP. However, certain essential data must be included.<sup>17</sup> At a minimum, the following essential data should be included in every SSP:

- a. A description of what is to be acquired. To the extent possible, this description should be stated in functional terms, using a minimum of technical language.
- b. A description of the evaluation organization structure. When feasible, include:
  - 1) An organization chart, showing the evaluation team's structure, or a brief description of the organizational structure.
  - 2) The duties and responsibilities of each element of the evaluation organization.
  - 3) The evaluation team's agenda and schedule.
  - 4) Requirements for preparation and training of the evaluation team.
  - 5) Security and other procedures to be used by the evaluation team to

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<sup>16</sup> See EFARS 14.201-1(a)(1).

<sup>17</sup> In formal source selection, additional specific elements are required. See AFARS Appendix AA, "Formal Source Selection."

protect classified, proprietary, or source selection information, including applicable rules regarding disclosure of information prior to award.<sup>18</sup>

c. Plans for pre-solicitation activities, *e.g.*, draft solicitation, pre-solicitation/pre-proposal conference, or advance planning briefing for industry.

d. An acquisition strategy summary, including an explanation of the contract type to be used (*e.g.*, cost-reimbursement with incentive fee, firm-fixed price, etc.).

e. Proposed evaluation factors and subfactors, their relative importance, associated proposal evaluation procedures, minimum Government requirements and decisional rules.

f. A description of the evaluation process, including the rating system to be used.

g. A schedule of significant milestones which cover, at a minimum, the period beginning with designation of the SSA, and continuing through development and issuance of the RFP, receipt of proposals, evaluation, negotiation, selection/award and contract execution.

To the extent any of the above are included in a formal acquisition plan (AP), they should be summarized in the SSP, which should also incorporate pertinent provisions of the AP by reference.

## **B. Evaluation Factors and Significant Subfactors.**

### **1. General.**

a. "Evaluation factors" are those aspects of a proposal that will be evaluated quantitatively and qualitatively to arrive at an integrated assessment as to which proposal can best meet the Government's needs as described in the solicitation.<sup>19</sup> Evaluation factors are also referred to as "discriminators."

b. Except for mandatory factors discussed in section V.B.3., below, selection of evaluation factors is within CETAC's discretion, but must fit the needs of the acquisition. Therefore, only those factors that will have an impact on the source selection decision should be used.

c. Both the FAR (15.605) and the AFARS (15.605) should be consulted

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<sup>18</sup> See FAR 15.413.

<sup>19</sup> AFARS 15.601

for additional guidance on selecting evaluation factors.<sup>20</sup>

d. Offerors are entitled to know the basis upon which their proposals will be evaluated and how they can best prepare their proposals. Evaluation factors help offerors understand the evaluation process. Therefore, all evaluation factors and significant subfactors that will be considered in making the source selection and their relative importance must be clearly stated in the RFP to inform offerors of all significant considerations in selecting the best value source and the relative importance the Government will attach to each of these considerations.

e. The SSA is required to use evaluation factors and subfactors to differentiate between offers in selecting the offer which represents the best overall value.

f. Evaluation factors will have both desirable and undesirable aspects which will be reflected in varying proposals. This variance will be used to measure the value of each proposal. Proposal differences, as measured against each evaluation factor, trigger the necessity for a Government trade-off analysis, which is made at various levels in the best value process, and applies to all evaluation factors and significant subfactors. Price versus quality is the ultimate “trade-off” in a best value procurement. Evaluation factors, or “discriminators,” should contribute value and thus serve to *distinguish* the value of one proposal from another in a way that is relevant to the acquisition.

g. Factors should be developed at the level of detail sufficient to discover those advantages, disadvantages and deficiencies of offers directly associated with significant aspects of the required items or significant task elements of the required services. Mere recitation of top level factors such as “technical” and “management” is insufficient, as such descriptions are too vague to be useful. Evaluation factors must clearly communicate the intended basis of award to potential offerors.<sup>21</sup>

h. Therefore, considerable attention must be given to defining the factors. Too narrow a definition will allow no variation in proposals. Too broad a definition will lead to wide-ranging interpretations by offerors and evaluators.

i. In accordance with statutory and regulatory requirements, structure evaluation factors and their relative order of importance to clearly reflect the Government's need and facilitate preparation of proposals that best satisfy that need.

j. Recent legislation (FASA and FARA) and recent FAR amendments

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<sup>20</sup> In addition, the DFARS addresses evaluation criteria for acquisitions which require small business plans and best value considerations for competitive acquisition of services.

<sup>21</sup> AFARS 15.605(b). See AFARS 15.605 for additional requirements.

provide minimum requirements for RFP language on evaluation factors. See section V.C.2., below.

## 2. Cost/Price Evaluation Factor.

a. Price. The Competition in Contracting Act (CICA), as implemented in the FAR and FAR Supplements, requires that price or cost to the Government be included as an evaluation factor and evaluated in every source selection. There is no requirement that cost or price be the dispositive factor.

b. Total Cost. If Government estimates of future or life cycle costs are to be evaluated, the RFP must clearly specify the procedure and methodology that will be used. If so, total cost to the Government, not just proposed costs/prices, may be evaluated. Total cost includes contract prices or costs and other quantifiable elements, such as support and in-house costs and contingencies over the life of the contract. Other specific cost items which may affect total cost to the Government are site preparation, electrical power and other utilities, telecommunications, consumables and personnel travel costs. Other less obvious cost areas should also be considered: *e.g.*, training costs proposed by an offeror, contingencies, fee or profit, and O&M.

c. Cost/price shall not be numerically scored in the evaluation of proposals. Distortions can result when arbitrary methods are used to convert prices into scores.

d. Cost-related factors and considerations will vary depending on the type of contract. Cost *reasonableness* must always be a consideration, as the FAR allows a contract to be awarded only if the cost or price is fair and reasonable.

### e. Cost Realism.

1) Cost realism plays an important role in most source selections. A cost realism analysis is a review of each offeror's cost proposal to determine if it is realistic for the work to be performed, reflects a clear understanding of the requirements, and is consistent with the technical proposal.

2) Cost realism *must* be considered when a cost-reimbursement contract is anticipated. For a cost-type contract, the proposed cost estimates may not be valid indicators of final actual costs which the Government may be obligated to pay. Therefore, perform an independent cost realism analysis to determine the ultimate most probable cost of performance for each offeror.<sup>22</sup> Proposed costs should be adjusted up or down for realism. Base selection decisions on these probable cost estimates, *i.e.*, cost as *evaluated* or adjusted. Significant differences between proposed and most probable costs may signal increased performance risks.

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<sup>22</sup> See FAR 15.810 on “should-cost” analysis.

3) Consider including cost realism as an evaluation factor for fixed-price contracts when there are concerns that offerors may try to "buy in", or where other complexities of the acquisition could result in misunderstanding the requirements. In such cases, a cost realism analysis may help to determine whether significant risk of future performance exists because of unrealistically high or low prices. However, for a fixed-price contract, a price proposal may not be rejected as unreasonably low unless the offeror is determined to be non-responsible.

f. State clearly what costs will be evaluated. For example, costs may include costs for the basic effort only, basic plus all options, or costs incurred as a result of acquiring or owning an item, (*e.g.*, transportation, life cycle costs). Clearly indicate in the RFP how the cost factor will be evaluated.

g. Because of the complexity, variety and importance of total cost issues, cost/price analysts should take an active role in acquisitions using the best value approach, beginning in the earliest stages of the procurement.

### 3. Required Non-Cost Evaluation Factors.<sup>23</sup>

#### a. Past Performance.

1) The caliber of a contractor's performance on previous contracts must be included as an evaluation factor in competitively negotiated best value acquisitions beginning in 1995.<sup>24</sup> FASA requires including past performance as an evaluation factor, unless the contracting officer documents in the contract file the reasons why past performance should not be evaluated.<sup>25</sup> Thoroughly evaluate past performance, including information outside an offeror's proposal, to ensure that award is made to a good performer rather than to just a good proposal writer. At a minimum, ACASS, CECASS or SSCASS will be used when available.

2) Where an offeror lacks relevant past performance history, the FAR states the offeror shall receive a "neutral" evaluation for past performance.<sup>26</sup> Interpretation of

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<sup>23</sup> See also FAR 15.407(h) and 15.605(e) for RFP language to use when the contracting officer determines multiple awards may be made.

<sup>24</sup> See FAR 15.605(b)(1)(ii).

<sup>25</sup> This is a phase-in requirement, which is detailed in FAR 15.605(b)(1)(ii).

<sup>26</sup> FAR 15.608(a)(2)(iii). *Compare:* FASA 1091 states that where there is no past performance information or where such information is unavailable, the offeror may not be rated favorably or unfavorably on that factor; and the Office of Federal Procurement Policy (OFPP) Guide to Best Practices appears to suggest that the requirements are satisfied if the offeror is

this requirement may depend on how past performance is defined in the solicitation. The possible lack of past performance information could be overcome in any of the following ways:

- a) Define past performance to include contracts for similar work; discuss with contacts listed by the offeror and document the conversations.
- b) Include the performance record of major subcontractors or key personnel in the definition of past performance.
- c) Specify that past performance information will be considered in the evaluation of the “capability” subfactors, *e.g.*, management capability, experience, etc.
- d) If there is in fact no evidence of past performance, follow the statute and do not use the lack of such information either favorably or unfavorably.

3) OFPP recommends that the RFP request offerors to provide references for ongoing contracts or contracts completed only within the last three years. A longer period may be appropriate for construction contracts, where records are maintained for six years. A shorter period may be appropriate for small dollar contracts, where there may be many actions and many contractors providing the type of products or services being procured.

b. Quality. The FAR requires quality to be addressed in every Part 15 source selection. To accomplish this, quality should be included and considered when evaluating one or more of the non-cost evaluation factors or subfactors, such as past performance. It can also be considered when evaluating technical excellence, management capability, personnel qualifications, prior experience and/or schedule compliance.<sup>27</sup>

c. Environmental objectives (*e.g.*, promoting waste reduction, source reduction, energy efficiency and maximum practicable recovered material content) must be considered in every source selection, when appropriate.<sup>28</sup> For most of CETAC’s area of

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assigned the average score of competing factors. The latter method can lead to arbitrary and sometimes unrealistic results. Consider omitting past performance, when there is no information available, from the overall scoring/rating for that proposer. This method would appear to result in a “true” neutral evaluation. The disadvantage to using this method is that a proposer with no past performance may be rated technically superior to others with less favorable, but relevant, past performance, whether the past performance evaluation factor is more or less important than other non-cost evaluation factors. *See* Reference III.S and Appendix H for additional guidance on using past performance as an evaluation factor in best value procurements.

<sup>27</sup> FAR 15.605(b)(1)(iii).

<sup>28</sup> FAR 15.605(b)(1)(iv).

responsibility, such considerations may not be specifically required. Even so, environmental objectives should be considered when appropriate.

#### 4. Other Non-Cost Evaluation Factors.

a. General. In addition to those required by the FAR (see V.B.3, above), any other relevant factors or subfactors may also be used to assess the proposal's quality, technical expertise and performance efficiency. A comprehensive requirements analysis is essential to assist in developing non-cost factors. Technical factors must be specifically developed for each acquisition, taking into consideration the particular objectives and requirements (including customer needs) of the procurement. Each technical evaluation factor should be a true discriminator. True discriminators should allow evaluators to determine substantive differences in technical approaches or risk levels among competing offerors. Assess the discriminatory value of potential evaluation factors by asking: "Will superiority in this factor provide value to the Government, and is the Government willing to pay for that superiority?"

b. Other considerations relevant to selecting and structuring non-cost evaluation factors are:

1) Agency requirements warrant a comparative evaluation of proposals in technical areas;

2) There is reasonable expectation of variance among offers in the particular technical area; and

3) Probability of an assessable variance, *i.e.*, either a quantitative or qualitative measurement is likely.

c. Depending on the procurement, use any of the following:

1) Technical approach and capabilities;

2) Management approach and capabilities;

3) Personnel qualifications;

4) Innovation;

5) Mission suitability;

6) Experience;

7) Performance Risk. Consideration of risk associated with an offeror's

proposal is frequently inherent in the evaluation of other factors.<sup>29</sup> However, a separate evaluation factor may be used to assess risk. For example, each proposal might be analyzed to assess impacts to schedule, management/technical capability, contractor support, and potential costs not considered under the cost/price evaluation factor. Obviously, risk should be a separate evaluation factor where offerors must submit a risk assessment as part of their proposals, to identify risk areas and recommended approaches to address those risks and minimize their impact on performance. When performance risk is not a separately stated evaluation factor, performance risk evaluations must be reasonably related to stated technical factors or significant subfactors (including cost or price). However, if significant to the evaluation, performance risk should always be separately stated as an evaluation factor.<sup>30</sup>

5. Limit Evaluation Factors to True Discriminators. Using too many factors and subfactors can lead to a leveling of ratings, from which the final result may be a number of closely rated offers with little discrimination among competitors, making the actual source selection extremely difficult. The number of non-cost factors is not critical, but selecting the right factors will facilitate the evaluation process.

C. Relative Importance of Evaluation Factors and Significant Subfactors.

1. General. After determining the evaluation factors and subfactors, establish their relative importance to each other. The relative importance of factors and subfactors must be consistent with the stated solicitation requirements. Relative importance must accurately reflect the Government's requirements to allow the SSA to award to an offeror whose proposal is truly most advantageous to the Government.

2. RFP Language. This is a key area in structuring a best value procurement and

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<sup>29</sup> Past performance, for example. See Appendix H.

<sup>30</sup> Note that DoD agencies are not required to separately identify each and every factor to be considered during an evaluation where a particular but not specifically identified factor is intrinsic to the stated factors or subfactors. Thus, even if the RFP does not specify performance risk as a separate evaluation factor, CETAC may nevertheless consider the risk involved in an offeror's approach as an inherent factor in proposal evaluation, and may use its assessment in determining which proposals offer the best value to the Government. For example, even where the RFP does not specify that performance risk will be separately evaluated, technical performance risk associated with an offeror's price proposal may be considered in price/cost realism analysis, where the RFP states that price proposals evaluated as unrealistic will result in a high performance risk rating or cites other risk elements as a basis for downgrading a proposal during evaluation. See *Information Spectrum, Inc.*, B-256609.3; B-2566609.5, Sep. 1, 1994, 94-2 CPD ¶ 251, redacted decision, 12/94.



is the subject of a recent FAR amendment.<sup>31</sup>

a. The relative importance of all technical or non-cost factors combined, as compared to cost or price, must be specifically stated.

b. FASA-implementing FARA provisions require that the solicitation state whether all evaluation factors, when combined, are:

- 1) significantly more important than cost or price;
- 2) approximately equal to cost or price; or
- 3) significantly less important than cost or price.

c. The RFP may elaborate further on the relative importance of the factors and subfactors at the discretion of the contracting officer.<sup>32</sup>

d. Numerical weights may be assigned to evaluation factors, and may be used when evaluating proposals. These weights must not be disclosed in the solicitation. However, in formal source selections, weights may be disclosed, on a case-by-case basis, at CETAC's discretion. In formal source selection, when numerical weights will be applied to proposal evaluation factors and it is proposed to include the weights in the RFP, the SSP must clearly state how this will further the overall objectives of the acquisition.<sup>33</sup>

### 3. Establishing Relative Importance of Evaluation Factors and Subfactors.

a. Although the conceptual significance of evaluation factors is set forth in the SSP and the RFP, the actual differences in proposals received will concretely establish the relative significance of evaluation factors and significant subfactors for each source selection.

b. The relative importance of evaluation factors and significant subfactors may be described by priority or trade-off statements, judgmental decision rules, weighting, or a combination of any of these.

c. The relative importance of cost or price with respect to non-cost factors must be reflected in both the solicitation and the weights or priority statement(s) in the SSP.

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<sup>31</sup> See FAR 15.605(d).

<sup>32</sup> See Appendix D for sample language going beyond the mandatory requirements of the FAR in stating the relative importance of evaluation factors.

<sup>33</sup> AFARS 15.612(c)(4).

d. When using other than formal source selection procedures, do not disclose the weights themselves in the RFP. Instead, include narrative descriptions in the RFP in the form of priority or trade-off statements. Use numerical weights or formulas with caution as they *limit* the flexibility of the SSA in conducting the tradeoff analysis.

e. Priority or Trade-off Statements. Priority or trade-off statements are narrative descriptions which relate one evaluation factor or subfactor to others. For example, in a priority statement, the cost factor may be said to be slightly more important than a non-cost factor called "management" or "performance risk" but slightly less important than a non-cost factor called "technical merit" or "operational suitability". Use this method to allow the SSA more flexibility for trade-off decisions between the non-cost factors and the evaluated cost/price.

f. Decision Rules. A decision rule tells how to deal with a factor under varying conditions, or informs offerors how the Government will choose the successful offeror. A sample decision rule is: "If the management factor is rated anything less than satisfactory, the entire proposal is unacceptable."<sup>34</sup>

g. Weighting. Weighting involves assigning relative importance to the factors and subfactors using points or percentages for each factor. However, numerical rating systems do not ensure mathematical precision since most evaluations are subjective to some degree.

#### D. Evaluation Criteria.

1. There are two (2) types of "evaluation criteria" and different disclosure rules apply to each.

##### 2. Minimum Government Requirements.

a. Evaluation criteria which establish the *minimum* level of acceptable compliance with a Government requirement which must be offered for a proposal even to be considered, and are used as a threshold of acceptability, are actually minimum requirements. Minimum requirements must be disclosed in the RFP, preferably all in one place in the RFP.

b. Evaluators use "minimum requirements" evaluation criteria as the first step in the evaluation process, to determine whether a proposal meets or does not meet threshold requirements disclosed in the solicitation.<sup>35</sup> They determine a proposal's worth against a uniform objective baseline (*i.e.*, an evaluation norm), rather than against other proposals. This step not

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<sup>34</sup> See Appendix D.

<sup>35</sup> The minimum requirements analysis, the first step in a best value evaluation, is similar to the "go - no go" methodology in an LPTA evaluation.

only determines acceptability, but also minimizes bias which can result from an initial comparison of proposals.

c. The solicitation must also specifically inform offerors of all “minimum requirements” that will apply in evaluating proposals under particular evaluation factors and significant subfactors. However, the RFP must clearly distinguish between minimum requirements or thresholds and desirable objectives. Desirable objectives need not be disclosed unless they will be used as evaluation factors. *Minimum Government requirements must be disclosed to offerors in the RFP if they will be used as a basis for evaluating proposals in any way.*<sup>36</sup> The RFP must also clearly state that if a proposal fails to meet minimum requirements, it will not be given further consideration.

### 3. Proposal Evaluation Methodologies.

a. Contrast the above definition with using the term “evaluation criteria” to describe or identify a *technique or methodology* for scoring and comparing proposals (e.g., how to use adjectival descriptions or assign numerical scores to document how proposals which satisfy minimum requirements compare with each other in terms of both meeting and exceeding those requirements).

b. Once again, if CETAC intends to consider capability above the minimal requirements as something of value which will offset higher price, *i.e.*, as an evaluation factor, the RFP must explicitly state this. However, proposal “desirables”, or those *features* of a proposal which, when evaluated, might cause it to earn a higher score, but the lack of which will not cause it to be downgraded, need not be disclosed in the RFP. However, if CETAC can identify such features in advance, and intends to use them in the source selection, the better practice is to disclose such elements in the RFP. Such features should be selected on the basis of improved performance and quality considered to be desirable and worth paying a price premium. Consider how this analysis may apply when developing standards for non-cost factors such as “innovation” or “flexibility.”<sup>37</sup>

c. Proposal evaluation methodologies are not releasable either in the solicitation or outside the source selection organization.<sup>38</sup>

4. Using a proposal evaluation methodology is necessary to facilitate consistency

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<sup>36</sup> *Sarasota Measurements & Controls, Inc.*, B-252406; B-252406.2, June 25, 1993, 93-1 CPD ¶ 494.

<sup>37</sup> For a more detailed discussion of disclosure of “desirables,” see The Nash & Cibinic Report, Vol. 10, No. 1, para. 5, January 1996.

<sup>38</sup> AFARS 15.608(a).

in the evaluation. Evaluators must be instructed to evaluate each proposal against the same baseline. The evaluators, who frequently have input into establishing the RFP evaluation factors, are able to know what is expected in terms of technical merit.

#### 5. Development of Proposal Evaluation Methodology.

a. Develop the proposal evaluation methodology concurrently with the evaluation factors and minimum requirements.

b. Proposal evaluation methodologies may use qualitative or quantitative standards.<sup>39</sup> While it is sometimes easier to develop quantitative standards because of their definitive nature, qualitative standards are commonly used in best value source selections.

c. Avoid using general qualitative or qualitative proposal evaluation standards. They tend to make consensus among evaluators more difficult to obtain and can easily obscure the differences between proposals.

d. In contrast, minimum requirements are used to establish precise, specific guidelines to describe the *minimum* level of compliance with a requirement which must be offered for a proposal to be considered acceptable.

e. A qualitative or quantitative standard can be defined in terms of any level of merit in the acceptable range, so long as its minimum requirements do not differ from the minimum requirements specified in the RFP, or so long as it does not include requirements not explicitly or implicitly included in the RFP. Again, however, *desirable* features exceeding the minimum contract requirements, and for which higher scores may be earned, need not be specifically defined in the RFP, so long as the RFP explicitly states that capabilities or features superior to the minimum requirements will be considered as something of value which will offset higher price.

f. Define qualitative or quantitative evaluation standards so that mere inclusion of a topic in an offeror's proposal will not result in a determination that the proposal meets the standard.

g. Qualitative and quantitative proposal evaluation standards must be defined in order to be utilized. Definitions must address minimally acceptable levels so that proposals not meeting requirements can be easily identified.

6. Both types of evaluation criteria (minimum requirements and evaluation methodologies, including qualitative and quantitative proposal evaluation standards) should be referenced and defined in the SSP, as well as set forth in the separate internal Government

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<sup>39</sup> Appendix D contains examples of both types of evaluation standards.

document establishing evaluation procedures. In addition to evaluation factor scoring sheets, consider using a checklist during evaluation to score and record whether a proposal satisfies "minimum requirements" evaluation criteria. The SSP should also reflect that failure to satisfy minimum requirements will preclude a proposal from further evaluation.

#### E. Rating Systems.

##### 1. General.

- a. A rating system should be established for use during proposal evaluation of non-cost evaluation factors.
- b. The system may utilize a scale of words, colors, numbers or other indicators to denote the degree to which proposals meet evaluation standards.
- c. Evaluators should use the rating system to assess relative merits of proposals.
- d. Some commonly used rating systems are numerical, adjectival, and color coding. Adjectival or color-coded rating systems allow maximum flexibility in making the trade-offs among the evaluation factors.
- e. *A narrative explanation must be used in conjunction with any rating system to support the rating given.*
- f. The keys to success in using a rating system in best value evaluations are:
  - 1) the consistency with which the selected method is applied to all competing proposals; and
  - 2) the adequacy of the narrative used to support the rating, regardless of the supporting method used.

##### 2. Types of Rating Systems.

- a. Numerical. This rating system generally allows for more rating levels and thus may appear to result in more precise distinctions of merit. However, using a numerical system has significant drawbacks which can be especially limiting in a best value source selection. Such systems lend an unjustified aura of precision to evaluations. Use of numerical ratings in conjunction with specific percentage weightings for the factors actually provides the *least* flexibility to the SSA in making award decisions. In addition, use of weighting techniques, even if generally revealed to proposers (in the RFP or at debriefings) may lead offerors to

manipulate the "formula" to win award, rather than provide the overall best value to the Government. Therefore, use of a number rating system alone is not recommended.

b. Adjectival. Use adjectives (such as exceptional, good, acceptable, marginal, and unacceptable) to indicate the degree to which the offeror's proposal has met the standard for each factor evaluated. Use adjectival systems independently or in connection with other rating systems.

c. Color Coding. This system uses colors instead of adjectives to rate proposals. Colors are used to indicate the degree to which the offeror's proposal has met the standard for each factor evaluated. For example, the color blue may indicate an exceptional rating where the proposal exceeds specified performance or capability in a beneficial way to the Government, has a high probability of success, and has no weaknesses.

d. Narrative.<sup>40</sup> A narrative system can be used alone or in conjunction with other rating systems. However, a narrative system should always be used to describe or indicate a proposal's strengths, weaknesses and risks. Thus, numerical, adjectival, and color coding ratings must always be supported with narrative statements. Narrative statements describe a proposal's relative strengths, weaknesses, and risks to the SSA in a way that numbers, colors, and adjectives alone cannot. They can become dispositive elements when proposers have seemingly equal ratings under other systems being used (e.g., two proposers are rated "blue" or "outstanding").

## **VI. SOLICITATION STRUCTURE.**

### **A. General.**

1. The solicitation should be structured to facilitate selection of the source whose proposal offers the greatest value to the Government in terms of relevant evaluation factors, such as performance, risk management, other technical factors, and cost or price.

2. Because every best value procurement must be conducted in a manner which ensures consistency among the acquisition objectives, contracting strategy, the SSP, the solicitation, the evaluation and the source selection, the various sections of the solicitation must be consistent with each other and with all other aspects of the acquisition, including the AP and the SSP.

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<sup>40</sup> A narrative is required at several points during source selection to document the process: 1) when evaluation criteria are being applied; 2) when a comparison of offers is made; and 3) when a cost/technical tradeoff is conducted.

3. In the RFP, Sections C, L, and M<sup>41</sup> (sections 00100 and 00800 in USACE construction contracts) work together to communicate Government requirements to potential offerors. Section C establishes requirements for the work effort, Section L instructs offerors on how to prepare their proposals, and Section M identifies and describes the evaluation factors and evaluation methodology. When considered together, Sections C, L, and M must convey to the offerors a clear understanding of the areas where technical and cost trade-offs can be made in their proposals to best satisfy the Government's requirements.

## B. RFP Development.

1. Internal Coordination Requirements. Industry frequently complains that activities issue solicitations with major conflicts, especially between Sections C, L, and M (or within sections 00100 and 00800 in USACE construction contracts). An inconsistent solicitation can result when different groups of people develop different sections without proper coordination. Such a solicitation can confuse our objectives, cause unnecessary delays, or lead to litigation. Post-award protests challenging a source selection decision based on inconsistent or confusing RFP language may be sustained in spite of the fact that challenges to RFP language are usually pre-award issues, especially if the selection decision lacks a rational, reasonable basis due to inconsistencies in the RFP evaluation scheme. Coordination within a multi-disciplined acquisition team, whose members are stakeholders (including customers) in the acquisition and have a commitment to work together, is the best way to ensure consistency.<sup>42</sup>

2. RFP Matrix. When feasible, the SSP should require the acquisition team to develop a matrix that correlates RFP sections and content to ensure consistency. In appropriate cases, consider providing industry with a copy of the matrix as a reference tool to aid in proposal preparation. This approach promotes understanding of the linkage between Sections C, L, and M (or sections 00100 and 00800 in USACE construction contracts) and explains how all elements of an offeror's proposal will be used in the evaluation process.

3. Tracking Sequences. It may be helpful to diagram or chart the relationship between key solicitation provisions and evaluation standards. An example of a "sequence tracking" document is included in Appendix E.

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<sup>41</sup> References to sections C, L and M of the RFP also refer to corresponding sections in USACE construction contracts. See EFARS 14.201-1(a) and 15.406-1.

<sup>42</sup> A Project Execution Team (PET) or Integrated Product Team (IPT) with appropriate staff representation should be appointed as soon as possible in the project planning process. The team should meet regularly and frequently to develop and conduct all major steps in the acquisition with full coordination and consensus.